

**IN UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS**

**SHERMAN DIVISION**

**DATE: 5/17/2022**

**DISTRICT JUDGE**  
**Amos L. Mazzant, III**

**COURT REPORTER: Chris Bickham**  
**COURTROOM DEPUTY: Keary Conrad**

Gibson Brands, Inc., a Delaware corporation	4:19CV358
v.	
Armadillo Distribution Enterprises, Inc., Concordia Investment Partners, LLC	
Does 1 through 10	

<b>ATTORNEYS FOR PLAINTIFF</b>	<b>ATTORNEYS FOR DEFENDANT</b>
Stephen Dale Howen, Andrea Bates, Kurt Schuettinger, Keith Slyter, Paralegal: Amanda Slyter	Vic Henry, Anna B. Naydonov, Douglas Rettew, Elyse McNamara, Patrick Rodgers and Emileigh Hubbard

On this day, came the parties by their attorneys and the following proceedings were held in Sherman, TX:

<b>TIME:</b>	<b>MINUTES: Jury Trial - Day 2</b>
8:28 a.m.	Court in session. Court notes appearances.
8:29:21 a.m.	Witness, Jim DeCola is reminded he is still under oath. Plaintiff's counsel, Stephen Howen continues direct examination of witness, Jim DeCola.
8:30:47 a.m.	Plaintiff's counsel, Stephen Howen refers witness to Plaintiff Exhibits 351, 352, 353, 354, 355, 759, 760, 769, 770.
8:56:47 a.m.	Plaintiff's counsel, Stephen Howen offers Plaintiff Exhibit 756. No objection. Plaintiff Exhibit 756 is admitted.
9:07:26 a.m.	Plaintiff's counsel, Stephen Howen offers Plaintiff Exhibit 757. No objection. Plaintiff Exhibit 757 is admitted.
9:30:26 a.m.	Plaintiff's counsel, Stephen Howen offers Plaintiff Exhibit 319. No objection. Plaintiff Exhibit 319 is admitted.
9:36:55 a.m.	Plaintiff's counsel, Stephen Howen offers Plaintiff Exhibit 749. No objection. Plaintiff Exhibit 749 is admitted.
9:41:09 a.m.	Plaintiff's counsel, Stephen Howen refers witness, Jim DeCola to Plaintiff Exhibit 5.
9:44:04 a.m.	Plaintiff's counsel, Stephen Howen refers witness, Jim DeCola to Plaintiff Exhibit 8.

9:46:52 a.m.	Plaintiff's counsel, Stephen Howen refers witness, Jim DeCola to Plaintiff Exhibits 357, 358, 359 (corresponding admitted exhibits are 354, 759, 769).
9:53:19 a.m.	Plaintiff's counsel, Stephen Howen passed the witness, Jim DeCola.
9:53:35 a.m.	Jury excused for morning break.
9:54:10 a.m.	Court recess for 15 minutes.
10:12:31 a.m.	Court re-convened. Jury seated.
10:13:17 a.m.	Defendant's counsel, Dave Rettew begins cross examination of witness, Jim DeCola.
10:13:18 a.m.	Defendant's counsel, Dave Rettew refers witness, Jim DeCola to Defendant Exhibits 3886, 3887, 3888, 3889, 3890, 3891, 3892.
10:29:05 a.m.	Bench conference regarding Plaintiffs' objection.
10:32:27 a.m.	Defendant's counsel, Dave Rettew continues cross examination of witness, Jim DeCola.
10:40:07 a.m.	Defendant's counsel, Dave Rettew refers witness, Jim DeCola to Defendant Exhibit 3785.
10:46:22 a.m.	Defendant's counsel, Dave Rettew concludes cross examination.
10:46:23 a.m.	Plaintiff's counsel, Stephen Howen begins re-direct examination of witness, Jim DeCola.
10:47:24 a.m.	Plaintiff's counsel, Stephen Howen refers witness to Defendant Exhibit 1493.
10:51:56 a.m.	Defendant's counsel, Dave Rettew begins re-cross examination of witness, Jim DeCola.
10:52:29 a.m.	Defendant's counsel, Dave Rettew concludes re-cross examination.
10:52:30 a.m.	Pass the witness. Court polls the jury for questions from the jury. Bench conference with counsel regarding questions from the jury.
10:54:39 a.m.	Court asks questions from the jury of witness, Jim DeCola.
10:55:02 a.m.	Witness excused.
10:55:07 a.m.	Plaintiff's counsel, Andrea Bates calls Aljon Go. Witness placed under oath.
10:56:10 a.m.	Plaintiff's counsel, Andrea Bates begins direct examination of witness, Aljon Go.
11:19:51 a.m.	Plaintiff's counsel, Andrea Bates refers witness, Aljon Go to Plaintiff Exhibit 758.
11:23:44 a.m.	Plaintiff's counsel, Andrea Bates offers Plaintiff Exhibit 54. Defendant's counsel, Dave Rettew objects beyond the scope of the disclosure; objection overruled. Plaintiff Exhibit 54 is admitted.

11:27:37 a.m.	Plaintiff's counsel, Andrea Bates offers Plaintiff Exhibit 61. Defendant's counsel, Dave Rettew objects beyond the scope of the disclosure; objection overruled. Plaintiff Exhibit 61 is admitted.
11:33:38 a.m.	Plaintiff's counsel, Andrea Bates offers Plaintiff Exhibit 279. No objection. Plaintiff Exhibit 279 is admitted.
11:36:26 a.m.	Plaintiff's counsel, Andrea Bates offers Plaintiff Exhibit 281. No objection. Plaintiff Exhibit 281 is admitted.
11:38:48 a.m.	Defendant's counsel, Dave Rettew objection. Bench conference.
11:46:10 a.m.	Bench conference concluded. Plaintiff's counsel, Andrea Bates continues direct examination of Aljon Go.
11:48:43 a.m.	Plaintiff's counsel, Andrea Bates offers Plaintiff Exhibit 387. No objection. Plaintiff Exhibit 387 is admitted.
11:54:29 a.m.	Plaintiff's counsel, Andrea Bates offers Plaintiff Exhibit 336, 337. No objection. Plaintiff Exhibit 336, 337 are admitted.
11:57:31 a.m.	Jury excused for lunch.
11:58 a.m.	Court hears from Plaintiff's counsel, Stephen Howen regarding Exhibit 51.
11:58 a.m.	Court hears objection from Defendant's counsel, Dave Rettew regarding objection to hearsay. Court hears response from Plaintiff's counsel, Andrea Bates. Court will ponder objections over lunch.
11:59 a.m.	Court recess for lunch.
1:00 p.m.	Court re-convened. Court overruled objection as to hearsay; the Court stood by its prior ruling sustaining the objection to Plaintiff Exhibit 51.
1:02:22 p.m.	Jury seated.
1:02:48 p.m.	Plaintiff's counsel, Andrea Bates continues direct examination of Aljon Go.
1:07:40 p.m.	Plaintiff's counsel, Andrea Bates offers Plaintiff Exhibit 376. No objection. Plaintiff Exhibit 376 admitted.
1:10:50 p.m.	Plaintiff's counsel, Andrea Bates offers Plaintiff Exhibit 542. No objection. Plaintiff Exhibit 542 admitted.
1:18:49 p.m.	Plaintiff's counsel, Andrea Bates offers Plaintiff Exhibit 660. Objection no foundation. Objection sustained.
1:21:08 p.m.	Plaintiff's counsel, Andrea Bates passed the witness.

1:21:16 p.m.	Defendant's counsel, Dave Rettew begins cross examination of witness, Aljon Go.
2:16:52 p.m.	Bench conference at request of Defendant.
2:19:51 p.m.	Bench conference concluded. Defendant's counsel, Dave Rettew continues cross examination of witness, Aljon Go.
2:28:37 p.m.	Pass the witness.
2:28:37 p.m.	Plaintiff's counsel, Andrea Bates begins re-direct examination of Aljon Go.
2:31:41 p.m.	Pass the witness.
2:31:41 p.m.	Defendant's counsel, Dave Rettew begins re-cross examination of witness, Aljon Go.
2:33:29 p.m.	Pass the witness. Court polls the jury for questions of the witness.
2:34:29 p.m.	No questions from the jury. Witness excused.
2:36:18 p.m.	Plaintiff's counsel, Andrea Bates calls Jason Davidson. Witness placed under oath. Plaintiff's counsel, Andrea Bates begins direct examination of witness, Jason Davidson.
2:50:02 p.m.	Plaintiff's counsel, Andrea Bates offers Plaintiff Exhibits 12, 14, 20, 22, 42, 48, 137, 139, 152, 158, 164, 176.
2:52:01 p.m.	Defendant's counsel, Anna Nayadonov objections to Plaintiff Exhibits 14 and 20 based on lack of foundation and requests to approach the bench.
2:52:19 p.m.	Bench conference.
2:58:25 p.m.	Bench conference concluded.
2:59:00 p.m.	Jury excused.
2:59:44 p.m.	Court allows Defendant's counsel, Anna Nayadonov voir dire questions of witness Jason Davidson for foundation questions regarding Plaintiff Exhibit 14 .
3:04:03 p.m.	Court notes the exhibit qualifies as a business record. Court notes witness does not have personal knowledge of the document.
3:05:28 p.m.	Court hears response from Plaintiff's counsel, Andrea Bates regarding the admissibility of the document and other opinions regarding personal knowledge of the witness of the document.
3:06:18 p.m.	Court hears argument from Defendant's counsel, Anna Nayadonov regarding document going toward the issue of latches.
3:07:48 p.m.	Court finds the document speaks for itself but witness has no personal knowledge of the document. Court hears further argument from Plaintiff's counsel, Stephen Howen.

3:08:40 p.m.	Exhibit 14 should be admitted as a business record. Court doesn't find that the prejudice outweighs the relevance of the document. Court expresses concern regarding emails (Exhibit 20).
3:10:22 p.m.	Court hears further argument from Defendant's counsel, Vic Henry regarding Plaintiff Exhibit 20.
3:11:54 p.m.	Court will contemplate emails over the break.
3:12:35 p.m.	Court recess for 15 minutes.
3:28:18 p.m.	Court re-convened.
3:28:55 p.m.	Court sustains the objection to Plaintiff Exhibit 20 for lack of personal knowledge.
3:29:13 p.m.	Court hears from Defendant's counsel regarding objections to other offered exhibits. Court advises Parties should object or approach the bench on those exhibits as offered.
3:29:35 p.m.	Defendant's counsel, Anna Naydonov advises the Defendant has no objection to Plaintiff Exhibits 42, 22, 48, 152, 139, 176, 164.
3:30:06 p.m.	Jury seated.
3:30:44	Court admits 14, 42, 22, 48, 152, 139, 176, 164 in front of jury
3:31:01 p.m.	Plaintiff's counsel, Andrea Bates continues direct examination of witness Jason Davidson.
3:35:31 p.m.	Plaintiff's counsel, Andrea Bates offers Plaintiff Exhibits 747, 281, 750, 746, 163, 170. No objection. Plaintiff Exhibits 747, 281, 750, 746, 163, 170 are admitted.
3:44:06 p.m.	Plaintiff's counsel, Andrea Bates requests bench conference regarding Plaintiff Exhibit 12.
3:51:57 p.m.	Bench conference concluded.
3:52:03 p.m.	Plaintiff's counsel, Andrea Bates continues direct examination of witness Jason Davidson.
3:57:37 p.m.	Plaintiff's counsel, Andrea Bates refers witness to Plaintiff Exhibit 752.
4:01:25 p.m.	Plaintiff's counsel, Andrea Bates refers witness to Plaintiff Exhibit 170.
4:01:45 p.m.	Plaintiff's counsel, Andrea Bates refers witness to Plaintiff Exhibit 176.
4:03:11 p.m.	Plaintiff's counsel, Andrea Bates refers witness to Plaintiff Exhibit 158.
4:04:40 p.m.	Plaintiff's counsel, Andrea Bates refers witness to Plaintiff Exhibit 163.
4:05:34 p.m.	Plaintiff's counsel, Andrea Bates refers witness to Plaintiff Exhibit 42.
4:06:57 p.m.	Plaintiff's counsel, Andrea Bates refers witness to Plaintiff Exhibit 22.

4:08:02 p.m.	Plaintiff's counsel, Andrea Bates refers witness to Plaintiff Exhibit 747.
4:08:50 p.m.	Plaintiff's counsel, Andrea Bates refers witness to Plaintiff Exhibit 48.
4:09:40 p.m.	Plaintiff's counsel, Andrea Bates refers witness to Plaintiff Exhibit 137.
4:10:41 p.m.	Plaintiff's counsel, Andrea Bates refers witness to Plaintiff Exhibit 750.
4:13:06 p.m.	Plaintiff's counsel, Andrea Bates refers witness to Plaintiff Exhibit 152.
4:13:26 p.m.	Plaintiff's counsel, Andrea Bates refers witness to Plaintiff Exhibit 139.
4:15:24 p.m.	Plaintiff's counsel, Andrea Bates moves to admit Plaintiff Exhibits 137 and 158. Defendant's counsel, Anna Naydonov objections to Plaintiff Exhibit 137 that it violates MIL #7 prevents introduction of 3 <sup>rd</sup> party sales and advertising. No objection to 158. Court will take up the objection on Plaintiff Exhibit 137 later.
4:19:37 p.m.	Defendant's counsel, Anna Naydonov begins cross examination of witness, Jason Davidson.
4:56:12 p.m.	Defendant's counsel, Anna Naydonov refers witness to Plaintiff Exhibit 164.
5:00:51 p.m.	Jury excused.
5:01:32 p.m.	Court addresses Plaintiff Exhibit 137. Court admits Plaintiff Exhibit 137. Court takes under advisement Plaintiff Exhibit 12 after issue at appeal board comes up by defense counsel.
5:02:48 p.m.	Court hears from Plaintiff's counsel, Stephen Howen regarding declarations and attached Exhibit A. Court advises that Parties will have an opportunity to review all exhibits before they are sent to the jury. Counsel continues to advise the Court of their desire to move Dean Zelinsky and Evan Robinson from may call to will call list. After hearing argument from counsel, Parties will agree to excerpts of Dean Zelinsky deposition and Plaintiff will cross examine Evan Robinson in Defendant's case in chief. Parties address the issue of Defendant's email noting that the Defendant has agreed to authenticity but Plaintiff does not have a witness to get the emails in.
5:14 p.m.	Court hears from Kurt Schuettinger regarding Berryman video (Ex 20). No objection by Defendant.
5:15 p.m.	Court hears from Defendant's counsel, Anna Naydonov regarding headstock opinion and argues that Exhibit 12 is inadmissible. Court will review.
5:17 p.m.	Court adjourned.

CASE NO. 4:19CV358 DATE: 5/17/2022

PAGE 7 - PROCEEDINGS CONTINUED:

	<b>Plaintiff total used:</b> 5:03:37 <b>Defendant total used:</b> 3:27:26 <b>Total court time today:</b> 7:12
	<b>Plaintiff Exhibits Entered:</b> 5, 8, 14, 22, 42, 48, 54, 61, 139, 152, 158, 163, 164, 170, 176, 279, 281, 319, 336, 337, 351, 352, 353, 354, 355, 376, 387, 542, 746, 747, 749, 750, 752, 756, 757, 758, 759, 760, 769, 770 <b>Defendant Exhibits Entered:</b> 1493, 3785, 3886, 3887, 3888, 3889, 3890, 3891, 3892

DAVID O'TOOLE, CLERK

BY: Keary Conrad  
Courtroom Deputy Clerk